

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

<b>CHRISTOPHER W. WEBB,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>vs.</b>	)	<b>Case No. CIV-10-438-JHP</b>
	)	
<b>BILL STURCH,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

This civil rights action was commenced pursuant to 42 U.S.C. § 1983 by plaintiff, a *pro se* inmate. On April 6, 2011, a special report was filed (Dkt. # 35) and a motion to dismiss (Dkt. # 34) was filed by Defendant Sturch.

Upon review of the pleadings and matters presented by the parties, the Court finds it is necessary to consider material outs of the pleadings in order to rule upon Defendant's motion. Therefore, the parties are hereby notified that the Court will treat Defendant's motion as a motion for summary judgment and not as a motion to dismiss. *See*, Fed.R.Civ.P. 12(d); *Paper, Allied-Indus., Chem. & Energy Workers Int'l Union v. Continental Carbon Co.*, 428 F.3d 1285, 1292 (10<sup>th</sup> Cir. 2005). Within fourteen (14) days of the entry of this Order, the parties shall present all materials, if any, not previously provided that are pertinent to the motion for summary judgment.

**ACCORDINGLY, IT IS HEREBY ORDERED that:**

1. The Court will treat Defendant's motion to dismiss (Dkt. # 34) as a motion for summary judgment and not as a motion to dismiss.
2. Within fourteen (14) days of the entry of this Order, or by **May 22, 2012**, the parties shall present any materials, if any, not previously provided that are pertinent to the motion for summary judgment.

DATED THIS 8<sup>th</sup> day of May, 2012.



James H. Payne  
United States District Judge  
Eastern District of Oklahoma